IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 6286 of 1999

For Approval and Signature:

Hon'ble MR.JUSTICE M.R.CALLA

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the Civil Judge? : NO

ADODIYA MANJULABEN HARJIBHAI

Versus

DISTRICT MAGISTRATE OF BHAVNAGAR

Appearance:

MR RD GAGDEKAR for Petitioner

MR HL JANI LD. AGP for Respondent No. 1, 2, 3

CORAM : MR.JUSTICE M.R.CALLA

Date of decision: 18/02/2000

ORAL JUDGEMENT

This Special Civil Application is directed against the detention order dtd. 13th July, 1999, passed by the District Magistrate, Bhavnagar whereby the petitioner has been detained under the provisions of the Gujarat Prevention of Anti-social Activities Act, 1985.

The petitioner is detained in Central Jail, Sabarmati, Ahmedabad. The Board has already confirmed the detention order on 24th August, 1999.

2. The grounds of detention enclosed with the detention order show that eight cases under Prohibition Act were registered against the petitioner at B-Division Police Station, Bhavnagar on different dates from 30th January, 1999 to 7th June, 1999. The petitioner was to be found in possession of the raw material to prepare country made liquor. The detaining authority has recorded that the petitioner is engaged in the business of unauthorised liquor and has also charged `Hafta', she is also engaged in eve-teasing. It may be observed at this stage that the petitioner herself is a lady and incorporation of allegation of eve-teasing against the petitioner lady, clearly shows the total non-application of mind with which the grounds of detention have been set out against her. The detaining authority recorded that the petitioner is engaged in anti-social activities of preparing and selling of unauthorised liquor, for which reference is also made to the statements dtd. 5th July, 1999 made by the two witnesses against her. The petitioner has been found to be a bootlegger by the detaining authority.

3. Learned Advocate for the petitioner has submitted that it is not at all case of breach of public order, even if all the allegations levelled against the petitioner are accepted to be correct, on their face value. Learned A.P.P. Mr. Jani failed to show as to how a case of breach of public order is made out in the facts and circumstances of the present case.

4. According to the several decisions of the Supreme Court, even if the grounds on which the detention order has been passed, are taken to be true, on their face value, the case of breach of public order still remains wanting. No case of breach of public order exists, in the facts and circumstances of the case. At the most it can be said to be a case of breach of law and order, hence, the detention order cannot be sustained in the eye of law. The detention order dtd. 13th July, 1999 as has been passed by the District Magistrate, Bhavnagar is hereby quashed and set aside. It is directed that the petitioner detenu Adodiya Manjulaben Harjibhai be released forth, if not required to be detained under any other detention order or in any criminal Case. This Special Civil Application is allowed. Rule is made absolute.

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